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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jay B. Schiller

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12/27/2010

ARRIS

3871 Lakefield Drive

Suwanee, GA 30024

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2424

NOTIFICATION DATE

DELIVERY MODE

12/27/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mirho@fspllc.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/759,935	<b>Applicant(s)</b> SCHILLER ET AL.	
	<b>Examiner</b> REUBEN M. BROWN	<b>Art Unit</b> 2424	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 46-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Response to Arguments**

1. Applicant's arguments 9/28/10 have been fully considered but they are not persuasive.

Applicant argues on page 6 that the Logical Node ID in Son does not appear to identify a physical path from the headend to the group of subscribers. Examiner respectfully disagrees and points out that the Logical Node ID in Son represents a particular physical location in the network, and as such represents the path between the headend and the instant Logical Node, see col. 6, lines 1-16; Fig. 2A; Fig. 2B. Applicant also argues on page 7, that Son doesn't select only the modulator(s) of the physical transmission path associated with the particular group to pass the VOD to the subscriber terminal. Examiner also disagrees and points out that Son discloses, "... Thus, the automatic identification of the Logical Node in the return channel, allows the SCM 224 to determine which video stream, and channel provided by which DVM corresponds to a particular STB 220", see col. 5, lines 58-67.

As for the argument that Son does not provide the Logical Node ID in the VOD request, Dodson explicitly teaches this feature. However, it is pointed out that Son clearly teaches that the Son enables the Logical Node ID to be included in all upstream messages, which would include a VOD request.

As for the argument that Dodson teaches away from Son, examine respectfully disagrees. First of all, the modification of Son by Dodson, would operate in the environment of Son, which would provide the Logical Node ID to be included in the VOD request, so that there would not be a two separate ID's as posited by the applicant. To the extent that applicant would argue that the modification would require the Logical Node ID to be inserted at the upstream location discussed in Dodson, there would still not be confusion, since there would only be one Logical Node ID.

### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376) in view of Dodson, (U.S. Pat # 6,873,622).

Considering claim 42, the claimed VOD system, comprising:

‘an application server to associate a unique group identifier with each physical transmission path from the headend to each plurality of subscriber terminals *groups*’, Son teaches that the Logical Node ID generator 102 generates a Logical Node ID, which is inserted into the data stream to be transmitted over the network 108 to all of the relevant subscriber stations, (Fig. 1; Fig. 2b; Fig. 3; Fig. 4; col. 7, lines 45-62; col. 8, lines 1-35; col. 9, lines 17-25; col. 9, lines 29-40). The claimed ‘server’ reads on the system 100a and/or cable headend 304 of Son, see Fig. 1; col. 3, lines 51-67 thru col. 4, lines 1-67 and Fig. 3 & col. 6, lines 32-50, respectively. Thus, the claim reads on at least two or more STB within a certain hub receiving the same group ID from the server in Son, which is included in the reference, col. 7, lines 55-60.

‘data formatter to periodically transmit the group ID for a particular group along the associated physical transmission path’, reads on the operation of Son, col. col. 3, lines 51-67 thru col. 4, lines 1-67; col. 7, lines 55-60.

Regarding additionally claimed, ‘server to receive a request for a VOD including the group identifier and to extract and recognize the group identifier... to select only modulators of the physical transmission path associated with the particular group to pass the VOD *downstream*’, Son discloses that the subscriber stations include the Logical Node ID in their messages, and the headend transmits the requested VOD over the appropriate modulator 106 (col. 4, lines 57-67; col. 5, lines 45-67; col. 9, lines 25-30).

However, even though Son teaches that the Logical Node ID is transmitted upstream in messages, the reference does not explicitly state transmitting the Logical Node ID as part of a VOD request. Nevertheless Dodson, which is in the same field of endeavor, teaches that when a customer issues a request for a VOD program that the remote node numbers are added to the request, col. 4, lines 9-35 & Fig. 3, Step 42. The Broadband Digital Terminal, BDT 10, located within a central office receives the request that includes the remote node number(s), and uses the remote node number to at least verify the service, see col. 4, lines 8-39. The remote node numbers in Dodson, corresponds with the claimed group ID. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Son with the feature of receiving at a headend, a network node number (i.e., a group ID) that is associated with a requesting terminal, along with each request for service, at least for the purpose of verifying the customer's request service with instant customer's service entitlements & also ensuring the location of a subscriber terminal in the network, at the time of the service request, as taught by Dodson.

Considering claims 47 & 51, see Son, col. 2, lines 39-67; col. 4, lines 40-56; col. 8, lines 50-67.

Considering claims 48-49 & 52-53, Son teaches that the Logical Node ID may be periodically transmitted to the subscriber stations, (col. 8, lines 23-28; col. 9, lines 52-57). Son also teaches that the Logical Node ID may be sent as an MPEG stream, col. 8, lines 20-35.

Considering claim 50, the claimed method of providing VOD, corresponds with subject matter in claim 46 and is likewise treated.

### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A)      Alonso           Teaches a VOD request over the Internet.

5.      Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Annan Q Shang/  
Primary Examiner, Art Unit 2424